

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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DAVID BAYLOR,

Petitioner,

v.

ATTORNEY GENERAL OF THE  
STATE OF NEW JERSEY, *et al.*,

Respondents.

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Civ. No. 17-1435 (KM)

**OPINION**

**KEVIN MCNULTY, U.S.D.J.**

Petitioner David Baylor, a prisoner presently incarcerated at New Jersey State Prison in Trenton, New Jersey, brought a petition pursuant to 28 U.S.C. § 2254 for Writ of Habeas Corpus before this Court. (DE 1.) At the time of filing, Mr. Baylor paid the required five-dollar filing fee. On February 5, 2020, the Court issued an Opinion and Order denying the § 2254 petition. (DE 12, 13.) Petitioner thereafter filed an appeal of the denial with the United States Court of Appeals for the Third Circuit. (DE 14.) Petitioner separately filed a motion for leave to proceed *in forma pauperis* (“IFP”) on appeal. (DE 15.)

Pursuant to Federal Rule of Appellate Procedure 24(a)(1), a court may grant a petitioner IFP status on appeal where the petitioner shows, in the detail required by Form 4 of the Appendix of Forms, that he is unable to pay or to give security for the fees and costs on appeal. A petitioner must also state the issues that he intends to present on appeal. *See* Fed. R. App. P. 24(a)(1). Under Local Appellate Rule 24.1(c), a prisoner seeking IFP status on appeal of the denial of a habeas petition,<sup>1</sup> must file “an affidavit of poverty in the form prescribed by the

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<sup>1</sup> Paragraph (c) of Local Appellate Rule 24.1 applies to “cases filed in which 28 U.S.C. § 1915(b) does not apply.” L. App. R. 24.1(c). The Third Circuit has held that § 1915(b) does not

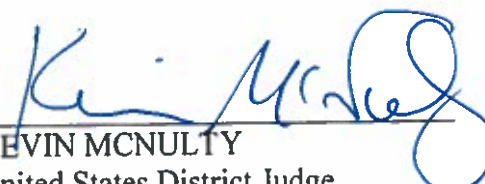
Federal Rules of Appellate Procedure accompanied by a certified statement of the prison account statement(s) (or institutional equivalent) for the 6 month period preceding the filing of the notice of appeal.” L. App. R. 24.1(c).

Here, Mr. Baylor’s application for IFP status does not include a certified six-month prison account statement. (DE 15.) Accordingly, Mr. Baylor’s motion will be denied without prejudice until such time as he has cured this deficiency.

### CONCLUSION

For the reasons set forth above, Mr. Baylor’s motion for leave to proceed *in forma pauperis* on appeal is denied without prejudice. Mr. Baylor may file another application for leave to proceed *in forma pauperis* on appeal within 30 days of this Opinion and accompanying Order. If Mr. Baylor wishes to refile his application, he must do so by filing a new application accompanied by an affidavit of poverty, a certified six-month prison account statement, and a statement of the issues he intends to raise on appeal. An appropriate Order follows.

DATED: March 12, 2020

  
KEVIN MCNULTY  
United States District Judge

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apply to habeas petitions or to appeals of denials of habeas petitions. *See Santana v. United States*, 98 F.3d 752, 756 (3d Cir. 1996).